

JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police
(As Amended at ARRS, December 9, 2021)

502 KAR 50:010. Admissibility of evidence.

RELATES TO: KRS 16.140

STATUTORY AUTHORITY: KRS 16.140(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 16.140 establishes a trial board within the Department of Kentucky State Police to hear charges against officers. KRS 16.140(8) authorizes ~~[provides that]~~ the commissioner to ~~[may]~~ promulgate ~~[reasonable rules and]~~ administrative regulations governing the procedure before the trial board. This administrative regulation establishes ~~[is necessary to define the]~~ standards for the admissibility of evidence in proceedings before the trial board.

Section 1. Presiding Officer. The designated members of the trial board shall~~[will]~~, prior to the beginning of a trial, select one (1) of its members as the presiding officer. The presiding officer may~~[, if desired,]~~ have the assistance of counsel in order to rule on evidentiary or procedural matters. The presiding officer shall not vote or otherwise participate in the trial board's determination of guilt or innocence or in the setting of the punishment, if any.

Section 2. Strict Rules of Evidence Not to Apply. Any evidence which would be admissible under the statutes of the Commonwealth of Kentucky and under the rules of evidence followed by circuit courts of the Commonwealth of Kentucky shall be admitted in hearings before the trial board; however, the presiding officer may admit evidence that would be inadmissible in the courts if the evidence is of the type commonly relied upon by a reasonable, prudent person ~~[men]~~ in the conduct of the person's~~[their]~~ affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded and the presiding officer shall give effect to the rules of privilege recognized by the laws of the Commonwealth of Kentucky.

Section 3. Discovery. Any officer against whom trial board charges have been filed may discover evidence. Discovery may be accomplished by use of the Open Records Law. Requests for documents shall be directed to the official custodian of records for the Kentucky State Police. Accused officers may also request the commissioner or presiding officer issue a subpoena for documents held by the agency that are relevant to an accused officer's defense. Discovery privileges, including the deliberation process and work product rule, shall be observed.

Section 4. Judicial Notice. The presiding officer may take judicial notice of matters of common knowledge that are beyond reasonable dispute, statutes, and official court records.

Section 5. Interrogation of Witnesses. The rules of law that apply to state court proceedings concerning the manner and scope of examination and cross-examination of witnesses shall apply to trial board proceedings.

Section 6. Impeachment of Witnesses. The rules of law concerning the impeachment of witnesses that apply to state court proceedings shall apply to trial board proceedings.

Section 7. Continuances. (1) A continuance of a scheduled hearing may be granted by the commissioner for good cause.

- (2) A request for a continuance shall:
 - (a) Be made in writing;
 - (b) State the reason for the request;
 - (c) Include proposed dates for rescheduling the hearing;
 - (d) Be filed with the commissioner; and
 - (e) Be mailed to all parties at least ten (10) days prior to the scheduled hearing.
- (3) An objection to a request for a continuance shall:
 - (a) Be made in writing;
 - (b) State the reason for the objection to the request for continuance;
 - (c) Be filed with the commissioner; and
 - (d) Be mailed to all parties at least five (5) days prior to the scheduled hearing.
- (4)(a) The commissioner shall transmit to all parties an order either granting or denying the request for a continuance.
 - (b) If the continuance is granted, the order shall state the date on which the hearing has been rescheduled or that the hearing has been continued generally.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.